

REMARKS

Applicants thank Examiner Ferguson for the courtesies he extended to their undersigned attorney in a telephone conversation held January 27, 2005. As expressed by the undersigned in that conversation, if upon considering this response the Examiner has any questions about the compliance of this application with formal requirements, he should telephone the undersigned immediately so that this application can be put fully in condition for allowance.

The only rejection of record in the pending Action is a provisional rejection of claims 1-13, 15 and 25-40 for obviousness-type double patenting over claims 1-17 of co-pending Serial No. 10/270,734. The Examiner has made this rejection final since, in his view, applicants did not respond to it in the Response filed August 3, 2004. Applicants respectfully submit that a provisional rejection for double patenting over a pending application is not actually a rejection but is instead a form of "heads up" to the applicant advising that if the cited application issues as a patent, the Examiner will interpose a double patenting rejection. Serial No. 10/270,734 is not as far along in prosecution as is this application and is not likely to issue any time soon. Furthermore, there is no double patenting rejection in that application over this application. Applicants also note that MPEP 804, especially at page 800-19, states that if a provisional double patenting rejection in one application is the only rejection remaining in that application, the Examiner should then withdraw that rejection and permit the application to issue as a patent. Under these circumstances, therefore, applicants respectfully submit that the provisional obviousness-type double patenting rejection should be withdrawn and this application allowed to issue. The Examiner in Serial No. 10/270,734 should be given the opportunity to decide whether there is a double patenting problem between that application and the claims as they might issue in this application.

In paragraph 5 on page 4 of the Action, the Examiner reminded applicants that their reply must either comply with all formal requirements or specifically traverse each requirement not complied with. Applicants understand that there are no outstanding formal requirements at this

time and that the application is in condition for allowance. If the Examiner finds any informality that applicants should respond to, he should telephone the undersigned immediately so that such informalities can be dealt with.

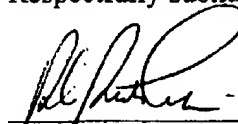
Early action allowing claims 1-20 and 24-46 in this application is solicited.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing **361752000500**.

Respectfully submitted,

Dated: January 28, 2005

By:



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